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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,764	09/14/2000	Charles Schinner	10001934-1	1332

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EXAMINER

JERABEK, KELLY L

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/661,764

Applicant(s)

SCHINNER ET AL.

Examiner

Kelly L. Jerabek

Art Unit

2612

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☒ Newly proposed or amended claim(s) 13 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: 13.

Claim(s) objected to: _____.

Claim(s) rejected: 1-12.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


AUNG MOE
PRIMARY EXAMINER

Continuation of 3. Applicant's reply has overcome the following rejection(s): The 103 (a) rejection of claim 13 (Hata in view of Nakai et al. and further in view of Fellegara et al.

Continuation of 5. does NOT place the application in condition for allowance because: 1) Applicant alleges (amendment pages 2-3) that there is no motivation to combine the teachings of the blur avoiding photographing mode disclosed by Hata with the monitoring mode disclosed by Hata. The Examiner respectfully disagrees. The camera disclosed by Hata is capable of operating in a monitoring mode (live view mode) in which an image to be photographed is displayed in a display panel (122) (col. 6, lines 44-47). The camera includes a programmable amplifier (105) for adjusting the strength of the electrical signal in order to output an optimum image signal (col. 6, lines 45-67). The programmable amplifier (105) applies different gains to the image signal depending on the light conditions of the image to be photographed (col. 6, lines 59-67). Therefore, the programmable amplifier (105) is adjusted when it is determined that the image is obfuscated due to lighting conditions to lack discernible features in order to display an image with optimum brightness (col. 6, lines 62-67). Although the monitoring mode described by Hata includes all of the limitations discussed above, the embodiment including the monitoring mode does not specifically state that the programmable amplifier (105) is responsive to a manual indication from a user that the image is sufficiently obfuscated due to lighting conditions to lack discernible features. Hata discloses in another embodiment of the digital camera a blur avoiding photographing mode. In the blur avoiding photographing mode a user can select an appropriate gain level of the programmable amplifier (105) according to the quality level of the photograph desired by the user (col. 10, lines 41-46). Therefore, it would have been obvious for one skilled in the art to have been motivated to include idea of allowing a user to select the gain of the variable amplifier as disclosed by the blur avoiding photographing mode of the digital camera disclosed by Hata in the monitoring mode of the digital camera disclosed by Hata. Doing so would provide a means for allowing a user of the camera to select the gain of the variable amplifier according to the quality level desired by the user rather than automatically adjusting the gain of the variable amplifier (Hata: col. 10, lines 41-46).

The motivation for combining the two embodiments of the Hata reference is to allow a user to select an appropriate gain level of the VG amplifier (105) in order to achieve a quality level of the photograph desired by the user (Hata: col. 10, lines 44-46). The VG amplifier (105) in the camera disclosed by Hata is capable of both automatic and manual gain adjustment, therefore the mere fact that one mode of the camera provides a manual adjustment and one mode provides an automatic does not teach away from providing a manual adjustment.

2) Applicant alleges (page 3) that the Fellegara reference does not appear to disclose or suggest responding to a manual indication from a user that the image is sufficiently obfuscated due to lighting conditions to lack discernible features. The Examiner agrees. However, the 103 combination of the Hata reference teaches this feature. Specifically, Hata states that in the blur avoiding photographing mode a user can select an appropriate gain level of the programmable amplifier (105) according to the quality level of the photograph desired by the user (col. 10, lines 41-46). The Fellegara reference was included to show the teaching of refreshing a displayed image at a given frame rate independently of LCD brightness and contrast controls.

Re claim 12, Hata includes all of the limitations of claim 7 above. However, he does not go into the details of how the live view image in the monitoring mode is displayed. Specifically, Hata fails to specifically state that the displayed image is repeatedly refreshed at a given frame rate independently of LCD brightness and contrast controls.

Fellegara discloses a digital camera with quick review of last captured image (fig. 6). The main display screen unit (36) of the camera is continuously refreshed by frame rate signals provided by the ASIC (122) and the microcontroller (page 5, paragraph 44). Fellegara makes no mention of LCD brightness or contrast controls being associated with the frame rate, thus this refreshment is independent of the LCD brightness and contrast controls. Therefore, it would have been obvious to include the ASIC (122) and microcontroller as disclosed by Fellegara in the digital camera disclosed by Hata. Doing so would provide a means for activating a display screen for a period of time in order to display an image (Fellegara: page 2, paragraph 8).

3) Applicant alleges (page 4) that although the Nakai reference discloses that it is desirable to carry out a warning informing the photographer of an over-exposure condition, the reference provides no disclosure of automatically displaying a set of control icons. Further with respect to the Fellegara reference, the mere disclosure of a graphical user interface to permit the operator to select various functions does not constitute automatically displaying a set of control icons whenever the exposure time of an image capture device is at about 13.33 milliseconds or greater to help facilitate user adjustments to improve image quality. The arguments regarding claim 13 are persuasive and therefore the Examiner is withdrawing the rejection of claim 13. Claim 13 is thus found to be allowable over the prior art.